



ON-THE-JOB

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Labor Commission Dealing with Fallout From Troubled Economy

By Heather Morrison, Director Utah Antidiscrimination & Labor Division

With the troubled economy, it's little wonder that some companies are having a hard time making their payroll, and that as a result, more employees are filing wage claims with the Utah Antidiscrimination & Labor Division than in previous years. In fact, during the State fiscal year 2009 (July 1, 2008 - June 30, 2009), the Division saw an increase in wage claim filings of more than 40% over the previous 12 months. As of June 30, 2009, the Division had

case manager who tries (with varying success) to keep everyone's heads above water. On top of all that, the Division has experienced an unexpected and dramatic staffing shortage in the wage claim unit over the past few months. Although the short-

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able to bring in some temporary employees to help out, it has meant that we have not been able to be as responsive to phone calls and walk-ins as we would like.

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more than 1,700 open/pending wage claims; it receives, on average, about 40,000 phone calls, walk-ins and email inquiries a year from the public, with questions ranging from status updates on their cases to whether employers have to pay for jury duty.

The Division employs 2 wage claim intake officers who field the majority of the public inquiries. We also have 3 investigators (who handle, on average, more than 450 open cases/year), an Orders clerk (with about 1,100 open cases), a hearing officer (who issues more than 1,000 Orders/year) and a

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Balchem Corporation Wins 2009 Arches Award for Utah Safety & Health

By Jerry Parkstone, Consultation, Utah OSHA

The 2009 Arches Award for Workplace Safety and Health was presented to Balchem Corporation, in a ceremony on August 28, 2009. Balchem Corporation's principle activity is to manufacture and market specialty performance ingredients for food, feed, pharmaceutical, and medical sterilization industries. They have been doing business in Utah since May of 2006. Each year subsequent to their beginning operation in Salt Lake City, they have had a Total Recordable Case (TRC) and Days Away Restricted or Transferred (DART) rate of zero.

Balchem continuously works to have their safety and health program included in all areas of the company. Every employee of Balchem Corporation is involved in maintaining a culture of safety in their particular areas. The employees formulate safety procedures, perform safety audits, and suggest corrective action for any unsafe work practice or equipment issue.

Balchem's corporate culture is rooted in a deep commitment to providing a safe working environment for its employees. Congratulations to Balchem Corporation!

**UTAH
Occupational
Safety
and Health**

**Achieving
compliance
and
Providing
assistance
with safety
and health
in the
workplace**



Pictured Left to Right: (Utah Labor Commissioner) Sherrie Hayashi, (Operations Manager) Robert Roarke, (Plant Manager) Paul Jones

Commission Acquires Original Oil Painting “May Foundry Workers”

The Commission was interested in obtaining an original painting depicting Utah laborers, and Joy Nunn was interested in painting one. So, as it happened, while attending a local art show, Commission employee Deedee Brunatti saw Ms. Nunn’s work and immediately felt it could be a perfect match.

In order to select the subject of the painting, Ms. Nunn visited many construction sites and factories throughout Utah taking photos. The May Foundry was then chosen. The May Foundry has a history with deep Utah roots. It originated in Salt Lake City in 1918 and is still owned by the 4th generation May family where they continue to produce iron and steel casting parts for machines. When the May Foundry first opened its doors, they produced parts for the railroad. Throughout the years, their business moved on to supplying parts for Kennecott and Geneva. They currently employ about 55 people.

The painting itself is done in oils and earned “First Place” for Ms. Nunn at the Utah State Fair. A former employee of the Foundry was impressed with the way Ms. Nunn captured the light which comes through the small, high windows in the factory. The painting depicts an important part of Utah’s workforce and hangs proudly in the Labor Commission Lobby.

About the Artist:

Ms. Nunn is a Utah resident who currently serves as Vice President of the Utah Watercolor Society and Director of Art at the Main, a Utah artists’ cooperative located in the Salt Lake City Library. She is also involved in Canvas and Gavel, a group of artists who display their art each year in a benefit with the proceeds going to “And Justice for All”, which help increase access to justice by supporting free civil legal aid programs for Utah’s most vulnerable citizens. She holds a bachelor’s degree in Art History from George Washington University and currently maintains an art studio in the Rockwood Studios in Sugarhouse.



**Deedee Brunatti, Labor Commission employee, with
“May Foundry Workers” an original painting
by Joy Nunn.**

Free National Fair Housing Seminars to be held in Salt Lake City

The Utah Labor Commission announces four upcoming free seminars conducted by the National Fair Housing Training Academy (NFHTA), to be held in Salt Lake City, Utah. NFHTA is a national training institution providing comprehensive fair housing and civil rights training and education. The seminars will be held at the Marriott Salt Lake City Downtown, 75 South West Temple.

DATES:

All seminars will be held from 8:30 – 4:30 p.m.

- ◆ Lending Discrimination, November 2-3
- ◆ Financial Aspects of Lending, November 4-6
- ◆ Buyer Beware, November 30-December 1
- ◆ Preventing Foreclosure, December 2-4.

The Commission encourages anyone involved in housing and real estate, housing counselors, or those whose business or professional activities necessitate having some familiarity with the basics of lending discrimination and predatory lending to attend one or more of these free seminars. Among the objectives of the seminars are helping attendees to be able to identify potential fair lending violations in the home buying process; identify problems in loan documents; explain the lending protections under the Fair Housing Act; and to list and describe various statutes which prohibit discrimination in lending.

The Utah Labor Commission enforces the Fair Housing Act which prohibits discrimination on the basis of race, religion, color, sex, national origin, familial status, disability or source of income in the rental, purchase and sale of real property. Additionally, based on a memorandum of understanding and a cooperative agreement with the U.S. Department of Housing and Urban Development, the Division is authorized to enforce the provisions of Title VIII of the 1968 federal Fair Housing Act.

Fair Housing receives, mediates (for early resolution),

investigates, and resolves charges of housing discrimination. It also acts as a source to residence seekers, property managers, and owners concerning laws which prohibit housing discrimination. Compliance through educational presentations such as the upcoming free seminars offered by NFHTA has effectively been utilized by Fair Housing as a means to encourage voluntary compliance.

For further information regarding the free upcoming Fair Housing seminars, or to register, please visit www.nfhta.org or call (202) 314-3422. For Utah Fair Housing information, please contact the Utah Labor Commission at (801) 530-6801.



Workplace Safety Poster Contest

Open to all Utah Middle/Junior High School Students

During the 2009-2010 school year, the Utah Labor Commission is excited to invite middle and junior high school students to participate in a statewide workplace safety poster contest with **substantial prizes for both the winning student and the school**. Any school with students who enter will be awarded **at least \$300**, with the potential to win much more!



Since the workplace impacts all people and families in Utah, the Utah State Legislature appropriated funds to the Labor Commission to inform citizens of the need for workplace safety. As students in the junior high and middle schools participate in the technology/life/careers (TLC) project and are the workers of the future, we believe it is important to begin the prevention process early by stressing safety. This contest has generated great interest in workplace safety and those schools who have participated in the past have found it both rewarding and educational. The workplace safety posters could be done through the art department or integrated into the TLC curriculum and serve as a motivational learning tool.

Contest basics are:

- ◆ All middle and junior high students - private or public - are eligible to enter.
- ◆ Deadline for receipt of all contest entries is March 1, 2010.
- ◆ The winning posters will be reproduced as determined by the Labor Commission..
- ◆ From all submitted entries, there will be approximately 35 posters selected as semi-finalists.
- ◆ The winning entry will receive a cash prize of \$500 for the student, as well as a \$500 cash prize for the classroom.
- ◆ The next three runners-up will each receive a cash prize of \$300, as well as a \$300 cash prize for the classroom.
- ◆ Eight additional entries will be selected as Honorable Mention and will receive a cash prize of \$200, with matching amounts for the classroom.
- ◆ The top twelve winners as outlined above will be featured in the 2010 Workplace Safety Calendar.
- ◆ Non-placing semi-finalists will receive a cash prize of \$50.

FOR MORE INFORMATION, CONTACT ROBYN BARKDULL - rbarkdull@utah.gov



Utah Labor Commission office hours are Monday through Thursday 7am-6pm. Some services may be available after hours or available on our website:
www.laborcommission.utah.gov



GOOD NEWS! For Utah Employers and Employees

The 2009-2010 Actuarial Reports for the **Employers' Reinsurance Fund (ERF)** and the **Uninsured Employers' Fund (UEF)** completed by Deloitte Consulting LLP show both funds are fiscally and actuarially sound. Sound enough to lower the surcharge rates applied to all workers' compensation insurance premiums.

Each year the ERF and UEF are required by law to have a professional actuary review and make recommendations for any adjustment to the WC insurance premium surcharges to ensure both funds stay actuarially sound. Over the next few years, the ERF surcharge rate is expected to steadily drop from the 7.25% rate in 2008 to zero in 2013. In 2010, the UEF surcharge rate will be reduced from .25% to .05%. Beginning in 2013 and thereafter, the total surcharge rate is expected to stay below 1%.

The **Workplace Safety Restrict Accounted (WSRA)** has remained constant at 0.25 of 1% since that account was created. WSRA funds are used to promote workplace safety, including safety consultation services available to Utah employers; electronic print or media advertising campaigns to promote workplace safety; and other workplace safety grants and initiatives. The newly created **Industrial Accidents Restrict Account (IARA)**

rate is expected to remain constant at 0.50 of 1% indefinitely. The IARA was created to fund the activities of the Industrial Accidents and Adjudication Divisions at the Utah Labor

Commission. This will eliminate the use UEF money to fund general administration costs of the Industrial Accidents Division. The Commission must report on the funding requests and usage to the WC Advisory Council, the Governor, and the Legislature.

The Workers' Compensation Advisory Council is committed to keeping premium rates down for Utah employers. When the actuary determined that the UEF could still remain actuarially sound with even further reductions than their initial recommendation, the Council voted unanimously to reduce the surcharges further. This is good news for both employers and employees as lowering the cost of doing business is beneficial to all.



Historic and New Yearly Summaries of WC Premium Surcharge Rates

	2008	2009		2010
Employers; Reinsurance Fund (ERF) surcharge rate	7.25%	5.00%		3.50%
Uninsured Employers' Fund (UEF) surcharge rate	0.25%	0.25%		0.05%
Workplace Safety Restricted Account surcharge rate	0.25%	0.25%		0.25%
Industrial Accidents Restricted Account surcharge rate				0.50%
Total of WC Insurance Premium Surcharge Rates Capped by Statute	8.00%	5.75%		5.75%
Total of WC Insurance Premium Surcharge Rates to be Collected	7.75%	5.50%		4.30%

The Rules Corner

Pursuant to authority granted by the Utah Legislature, the Commission has recently adopted or is considering the following substantive rules. If you have questions or concerns about any of these rules, please call the Labor Commis-



R612-2-5 Industrial Accidents	Regulation of Medical Practitioner Fees. As part of the Commission's regulation of medical fees, it replaces the 2008 version of the RBRVS (Resource Based Relative Value Scale) with the 2009 edition. This change is intended to take effect December 1, 2009.	Approved by Workers' Compensation Advisory Council; discussed at public hearing; published in <i>Utah Bulletin</i> on October 15, 2009; can become effective on November 23, 2009.
R612-8 Industrial Accidents	Reemployment of Injured Workers. Repeals old reemployment rules and enacts new rules that conform to recent amendments to the Utah Injured Worker Reemployment Act.	Approved by Workers' Compensation Advisory Council; discussed at public hearing; published in <i>Utah Bulletin</i> on October 15, 2009; can become effective on December 8, 2009.
R612-2 Industrial Accidents	Premium Assessments. Sets workers' compensation insurance premium assessment rates by reducing the Uninsured Employers Fund from .25% to .05% and the Employers' Reinsurance Fund from 5% to 3.5%	Approved by Workers' Compensation Advisory Council; discussed at public hearing; published in <i>Utah Bulletin</i> on October 15, 2009; can become effective on December 8, 2009.
R614-2 Occupational Safety and Health	Drilling Industry. Conforms Utah standards for drilling industry to federal standards by requiring fall protection at heights of more than four feet.	Discussed at public hearing; published in <i>Utah Bulletin</i> on October 15, 2009; can become effective on December 8, 2009.

Appellate Decisions

In the last three months, two workers' compensation appeals have been decided by the Utah Court of Appeals. The decisions are summarized below and can be read in full at www.utcourts.gov/courts/appell/.

***Gallegos v. Labor Commission and DABC*, (unpublished memorandum decision of the Utah Court of Appeals, issued September 17, 2009, 2009 UT App 268.)** Ms. Gallegos claimed benefits for an injury she attributed to her work at DABC. Attorneys for Ms. Gallegos and DABC waived a hearing before the Commission, stipulated to the facts, and asked the Commission to appoint a medical panel to examine Ms. Gallegos. The panel concluded that Ms. Gallegos's back problems were not caused by her work. The Commission accepted the panel's report and denied Ms. Gallegos's claim. Acting as her own attorney on appeal, Ms. Gallegos argued she had been denied her right to a hearing and the Commission should have accepted the opinions of her physicians rather than the opinion of the medical panel. The Court of Appeals rejected these arguments and affirmed the Commission's decision.

***Germer v. Labor Commission, Famous Dave's and Wausau Insurance*, (unpublished memorandum decision of the Utah Court of Appeals, issued July 30, 2009, 2009 UT App 203.)** Ms. Germer injured her knee by kicking open the door of a walk-in cooler. Because she had preexisting knee problems, the Commission evaluated her claim for benefits under the "unusual or extraordinary exertion" standard established by *Allen v. Industrial Commission*, 929 P.2d 15 (Utah 1986). The Commission concluded that Ms. Germer's action in kicking open the door was not an "unusual or extraordinary exertion" and, therefore, denied her claim. On appeal, Ms. Germer argued the Commission 1) misapplied the "unusual or extraordinary" standard; 2) denied her right to due process; and 3) violated the "open courts" provision of the Utah Constitution. The Court rejected each of these arguments and affirmed the Commission's decision.

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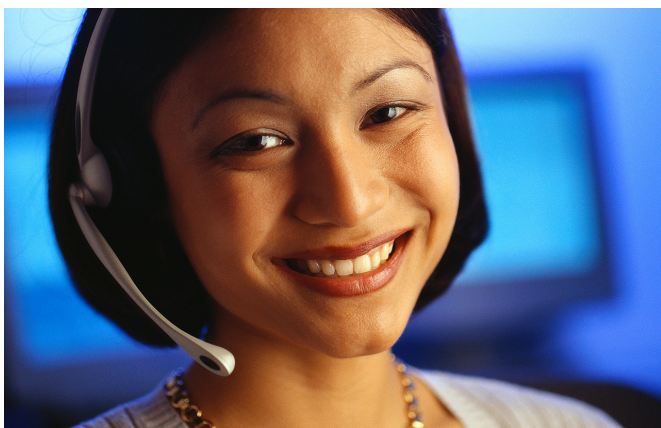
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Fallout from troubled economy

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So, please bear with us as we try our very best to stay on top of all of the calls and inquiries we receive. While we will continue to do our best to return all phone calls within 2 business days, we may not be able to get to your call as quickly as you'd like. If you cannot reach a "live" person right away, please be sure to leave a message, with your name, phone number and case number or question. It may sound like a cliché, but someone will get back to you as quickly as possible. We genuinely appreciate your patience!



Request Form

- ☐ Please delete my name from your mailing list.
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